

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, November 03, 2016

Hearing Room 301

10:30 AM

1:16-11035 Wilian Quijada Umana and Lizbeth J Grossett

Chapter 7

#1.00 Trustee's Final Report and Applications for Compensation

David Keith Gottlieb, Chapter 7 Trustee

Docket 38

Tentative Ruling:

David K. Gottlieb, chapter 7 trustee - approve fees of \$750.00.

Trustee must submit the order within seven (7) days of the hearing.

Note: No response has been filed. Accordingly, no court appearance by the chapter 7 trustee or his/her professionals is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and the relevant applicant(s) will be so notified.

Party Information

Debtor(s):

Wilian Quijada Umana

Represented By
Juanita V Miller

Joint Debtor(s):

Lizbeth J Grossett

Represented By
Juanita V Miller

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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1:00 PM

1:14-12922 Robert Lee Alderman and Noni Elizabeth Alderman

Chapter 11

#2.00 Hearing re Debtors' fourth amended disclosure statement in support
 of plan of reorganization

 fr. 4/7/16(stip), 5/19/16(stip); 8/4/16

Docket 367

Tentative Ruling:

The Court notes that the debtors have not served notice of the hearing on the Fourth Amended Disclosure Statement on the Internal Revenue Service ("IRS") and the State Board of Equalization ("SBE") in accordance with Local Bankruptcy Rule 2002-2(c) and Fed. R. Bankr. P. 5003(e) and used the addresses set forth in the "Register of Federal and State Government Unit Addresses [F.R.B.P. 5003(e)]" listed in the Court Manual under Appendix D, available on the Court's website, www.cacb.uscourts.gov, under "Rules & Procedures."

The debtors must serve the IRS with the solicitation package at the following addresses:

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Civil Process Clerk
United States Attorney's Office
Federal Building, Room 7516
300 North Los Angeles Street
Los Angeles, CA 90012

Attorney General
United States Department of Justice
Ben Franklin Station
P. O. Box 683
Washington, DC 20044

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CONT... Robert Lee Alderman and Noni Elizabeth Alderman

Chapter 11

The debtors also must serve the solicitation package on the SBE at the following address:

State Board of Equalization
Account Information Group, MIC: 29
P.O. Box 942879
Sacramento, CA 94279-0029

Subject to the debtors' counsel confirming that the terms of the stipulations with secured creditors will not affect the amount and timing of the payments to class 6 (b) nonpriority unsecured creditors, as stated in the body of the Fourth Amended Disclosure Statement and the attached projections, the Court will approve the debtors' Fourth Amended Disclosure Statement as containing adequate information pursuant to 11 U.S.C. § 1125.

Proposed dates and deadlines regarding the "Individual Debtors' Fourth Amended Chapter 11 Plan of Reorganization" (the "Plan")

Hearing on confirmation of the Plan: **January 19, 2017 at 1:00 p.m.**

Deadline for the debtors to mail the approved disclosure statement, the Plan, ballots for acceptance or rejection of the Plan and to file and serve notice of: (1) the confirmation hearing and (2) the deadline to file objections to confirmation and to return completed ballots to the debtors: **December 2, 2016.**

The debtors must serve the notice and the other materials (with the exception of the ballots, which should be sent only to creditors in impaired classes) on all creditors and the United States Trustee.

Deadline to file and serve any objections to confirmation and to return completed ballots to the debtors: **December 30, 2016.**

Deadline for the debtors to file and serve the debtors' brief and evidence, including declarations and the returned ballots, in support of confirmation, and in reply to any objections to confirmation: **January 9, 2017.** Among other things, the debtors' brief must address whether the requirements for confirmation set forth in 11 U.S.C. § 1129 are satisfied. These materials must be served on the U.S. Trustee and any party who

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CONT... **Robert Lee Alderman and Noni Elizabeth Alderman**
objects to confirmation.

Chapter 11

The debtors must submit an Order incorporating the above dates, times, and deadlines
by **November 10, 2016**.

Party Information

Debtor(s):

Robert Lee Alderman

Represented By
George J Paukert
Philip D Dapeer

Joint Debtor(s):

Noni Elizabeth Alderman

Represented By
George J Paukert
Philip D Dapeer

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1:14-12922 Robert Lee Alderman and Noni Elizabeth Alderman

Chapter 11

#3.00 Status conference re chapter 11 case

fr. 7/24/14; 8/21/14; 10/2/14; 11/20/14; 11/25/14
12/18/14; 1/15/15; 2/19/15; 3/19/15; 6/18/15; 6/25/15; 9/10/15; 10/15/15;
10/22/15; 12/17/15; 2/4/16; 4/7/16(stip); 5/19/16(stip); 8/4/16

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Alderman

Represented By
George J Paukert

Joint Debtor(s):

Noni Elizabeth Alderman

Represented By
George J Paukert

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1:16-12629 Cheryl Placencia

Chapter 11

#4.00 Debtor's motion to reconsider

Docket 16

Tentative Ruling:

Grant.

The Court will prepare the order.

Party Information

Debtor(s):

Cheryl Placencia

Pro Se

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Hearing Room 301

2:00 PM

1:14-13456 Gingko Rose Ltd.

Chapter 11

#5.00 Debtor's motion for order authorizing sale of real property at 801 N. Alvarado Los Angeles, CA 90026; (A) Outside the ordinary course of business; (B) Free and clear of liens, encumbrances and interests; (C) Subject to overbids; (D) For a determination of good faith purchasers pursuant to 363(m); and (E) Waiving the 14-day stay imposed by FRBP 6004

Docket 367

Tentative Ruling:

In connection with the Court making a good faith determination pursuant to 11 U.S.C. § 363(m), if the principals of the proposed buyer and the debtor appear in person at the hearing on this motion, opposing creditors may cross examine these individuals at that time. If those persons are not available for cross examination (and the opposing creditors seek an opportunity to cross examine them), the Court intends to continue the hearing on this matter until such cross examination can take place.

If the Court makes a good faith finding under § 363(m), the Court will approve the sale free and clear of interests in the subject property, including of the *lis pendens*. It appears all parties agree that proceeds of the sale (except those necessary to pay involuntary liens) will be held in a trust account until the disputes regarding interests in the property are resolved.

Party Information

Debtor(s):

Gingko Rose Ltd.

Represented By
Marc A Lieberman
Stephen E Ensberg Esq
Michael R Totaro

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1:14-13456 Gingko Rose Ltd.

Chapter 11

#6.00 Motion for sale of property of the estate under section 363(b)

Docket 362

***** VACATED *** REASON: Motion of voluntary dismissal filed 10/7/16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gingko Rose Ltd.

Represented By

Marc A Lieberman

Stephen E Ensberg Esq

Michael R Totaro

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Hearing Room 301

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1:16-11914 Loreta Calijan

Chapter 7

#7.00 Order to show cause why Carlo Reyes should not be held
in civil contempt and sanctioned for failing to comply with a court order

Docket 20

Tentative Ruling:

I. BACKGROUND

On June 30, 2016, Loretta Calijan ("Debtor") filed a voluntary chapter 7 petition (the "Petition"). The Petition was signed by Carlo Reyes as the attorney of record for Debtor.

On July 5, 2016, the Court entered an order dismissing the case for failure to file initial petition documents within 72 hours [doc. 8]. On July 12, 2016, the United States Trustee (the "UST") filed a motion for an Order Compelling Attorney to File Disclosure of Compensation (the "UST's Motion") [doc. 12].

On August 31, 2016, after a hearing, the Court entered an order compelling Mr. Reyes to file a Disclosure of Compensation within 14 days of entry [September 14, 2016] (the "Disclosure Order") [doc. 14]. However, by September 14, 2016, Mr. Reyes had not yet filed the required Disclosure of Compensation. On September 20, 2016, the UST filed an application for an order to show cause why Mr. Reyes should not be held in civil contempt and sanctioned for failing to comply with the Disclosure Order (the "Application") [doc. 16].

On September 21, 2016, Mr. Reyes filed an Attorney Disclosure of Compensation [doc. 18]. However, it was deficient; it was filed without Debtor's electronic signature, and it was unaccompanied by a separately filed Electronic Filing Declaration [doc. 19].

On October 14, 2016, the Court entered the *Order to Show Cause Why Carlo Reyes Should Not be Held in Civil Contempt and Sanctioned for Failing to Comply with a Court Order* (the "OSC") [doc. 20]. The OSC required Mr. Reyes to file a written response no later than October 20, 2016. Mr. Reyes has not filed a timely response,

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CONT... Loreta Calijan

Chapter 7

and has not filed an updated Disclosure of Compensation with the required signatures.

II. ANALYSIS

Pursuant to 11 U.S.C. § 105(a), the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out provisions of this title," and take "any action or mak[e] any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

"The standard for finding a party in civil contempt is well settled: The moving party has the burden of showing by clear and convincing evidence that the contemnors violated a specific and definite order of the court." *In re Dyer*, 322 F.3d 1178, 1190-91 (9th Cir. 2003). "Substantial compliance with the terms of a court's order is a defense to civil contempt." *In re Count Liberty, LLC*, 370 B.R. 259, 275 (Bankr. C.D. Cal. 2007). The party being held in contempt must show that he or she took every reasonable step to comply with the Court's order. *Stone v. City & Cnty. of San Francisco*, 968 F.2d 850, 856 (9th Cir. 1992) (citing to *Sekaquaptewa v. MacDonald*, 544 F.2d 396, 404 (9th Cir. 1976)); *see also Count Liberty*, at 275 ("To establish substantial compliance, the contemnor must show that he took all reasonable steps within his power to comply.").

Here, Mr. Reyes violated a specific and definite order of the Court. Not only did Mr. Reyes violate the Disclosure Order by failing to keep the deadline contained therein, but his late filing was deficient. Further, Mr. Reyes has made no representations to the court that he substantially complied with the Disclosure Order by taking "all reasonable steps within [his] power to insure compliance." *Stone*, 968 F.2d at 856. In fact, Mr. Reyes has not provided a response to the OSC at all.

In light of the clear and convincing evidence that Mr. Reyes violated the Disclosure Order, and the fact that Mr. Reyes has provided no explanation regarding the violation, the Court will hold Mr. Reyes in civil contempt.

III. CONCLUSION

Pursuant to the UST's request, the Court will sanction Mr. Reyes \$20 per day for each day that he has not filed a valid Disclosure of Compensation. The Court will also

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Chapter 7

award the UST the attorneys' fees and costs incurred in bringing the Application. The UST must file a declaration detailing the attorneys' fees and costs incurred in connection with the filing of the Application.

The UST must submit an order within seven (7) days.

Party Information

Debtor(s):

Loreta Calijan

Represented By
Carlo Reyes

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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1:16-12097 N.E. Designs, Inc.

Chapter 11

#8.00 Debtor motion for order authorizing debtor to pay insider compensation
fr. 9/22/16

Docket 40

***** VACATED *** REASON: Order entered 10/14/16 continuing hearing
to 11/10/16 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

N.E. Designs, Inc.

Represented By
Sandford Frey
Stuart I Koenig

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1:16-12376 Shawn Anthony Campbell and Alexandria Leighann

Chapter 13

#9.00 Order to show cause re dismissal for failure to comply with Rule 1006(b)

Docket 26

***** VACATED *** REASON: Case dismissed on 11/1/16 [doc. 31]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shawn Anthony Campbell	Pro Se
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Joint Debtor(s):

Alexandria Leighann Campbell	Pro Se
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Trustee(s):

Elizabeth (SV) F Rojas (TR)	Pro Se
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